UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

CAREY SALT COMPANY, A SUBSIDIARY OF COMPASS MINERALS INTERNATIONAL, INC.

AND Cases 15-CA-19704 15-CA-19738

UNITED STEEL, PAPER AND FORESTRY, RUBBER, MANUFACTURING, ENERGY ALLIED INDUSTRIAL AND SERVICE WORKERS INTERNATIONAL UNION AND LOCAL UNION 14425

CHARGING PARTY UNIONS' MOTION TO EXPEDITE ISSUANCE OF THE DECISION OF THE BOARD

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Attorneys for United Steel, Paper and Forestry, Rubber, Manufacturing, Energy Allied Industrial and Service Workers International Union and Local Union 14425 Now comes Charging Party Union, and does hereby move the Board to expedite its issuance of a decision in the instant case in light of the strong merits of this case and the irreparable harm being done to the Union and its members from delay in the final disposition of this case. This Motion is justified by the following:

- 1. This case involves the unlawful permanent replacement of around 115 unfair labor practice striking employees by the Employer in the spring of 2010, as well as the unlawful implementation of onerous terms and conditions of employment by the Employer.
- 2. On August 1, 2011, Judge Brakebusch, after a well-run hearing, promptly issued her thorough and well-reasoned decision in the instant case, finding that the Employer has repeatedly violated the Act as alleged in the consolidated complaint. Judge Brakebusch's recommended Order specifically includes a requirement that all formerly striking employees be offered immediate reinstatement as well as the restoration of the terms and conditions of employment of unit employees, as they existed prior to March 31, 2010, upon request of the Union. The Employer has refused to comply with any aspect of Judge Brakebusch's recommended Order and has filed its exceptions and supporting brief. All parties have submitted their briefs addressing the Employer's exceptions and the General Counsel and Union's cross-exceptions to the Board.
- 3. While it should be in the interest of all parties to get a Board decision in this matter as quickly as possible, the Employer has declined, without explanation, to join with the General Counsel and the Union in seeking expeditious review by the Board. And, without an expeditiously enforced Board order, the Employer will have the benefit of its un-remedied unilateral actions actions preclude effective bargaining for a new collective bargaining agreement and undermine employee support for the Union.

- 4. The Board previously sought Section 10(j) injunctive relief from the U.S. District Court, but to no avail. This demonstrates, however, the Board's acknowledgement of the need to expedite this case, and whether it is decided expeditiously is now fully in the control of the Board.
- 5. The Board currently has three members, including Member Becker, a recess appointment. If the Senate does not act on Member Becker's re-nomination, his term will expire when the Senate adjourns later this year. The Board would then have only two members. In *New Process Steel LP v. NLRB*, 130 S. Ct. 2635 (2010), the Supreme Court held that a two member panel cannot act for the Board. Therefore, there is a strong likelihood that if the Board does not issue a decision by year's end, this case may await disposition for many months to come.
- 6. At this point, less than half of the bargaining unit employees (48 out of a total of 115 employees) have been returned to work, with the consequent loss of support for the Union among the employees.
- 7. Moreover, even among the employees currently working at the salt mine at issue in this case, the Employer continues to marginalize the Union and the employees' Section 7 rights. Given the dangers inherit in an underground mining operation, work place safety is paramount. Under the unilaterally-implemented terms and conditions of employment (Article 15.01 of the expired CBA), there should be a joint safety committee, composed of three unit employees selected by the Local Union and three selected by the Employer. The Local Union should have authority to change the Union appointed employees on this committee. The Union appointed employees should be paid by the Employer for the time they serve on the joint safety committee. This joint safety committee should have authority to make recommendations on matters affecting the safety and health of all employees. One Union appointed safety committee

member should be authorized, on the clock, to accompany management personnel on monthly safety inspections. None of this is happening.

- 8. Instead, under the Employer's continuing illegally implemented terms and conditions of employment, the Employer appoints all members to the safety committee, which now includes ten people. Seven are management personnel. Three are "employee representatives" selected by the Employer. Two of the three "employee representatives" are employees who quit the Union during the strike and crossed the ULP picket line to return to work (Keith LeBlanc and Gary Crochet). The third "employee representative" is a ULP striker replacement (Tommy Zeringue). When a union has no meaningful role in work place safety, employees lose confidence in that union's ability to protect them on the job and represent their interest on fundamental workplace issues. The continuation of such an illegal process, as in the present case, can only undermine employee support for such a union, while allowing the employer to continue to benefit from its illegal conduct.
- 9. In addition, the employees must continue to work under the illegally implemented schedules. Failure to comply with the illegally imposed schedules subjects employees to discipline and discharge under the illegal imposed attendance control plan.
- 10. Under these circumstances, expedited review is warranted because the egregious unfair labor practices committed by the Employer continue unabated. The purposes of the Act would be best effectuated by an expedited decision in this case as it would return the parties to the status quo ante; return employees to their rightful positions in the mine; and allow the union, with the support of its membership, to bargain with the Employer over terms and conditions of employment. The failure to expedite the issuance of a decision, on the other hand, may very well leave the Union and the employees without an effective remedy, with the unit and the Union

severely undermined and without any ability in the future to continue bargaining effectively with the Employer over terms and conditions of employment.

11. For the foregoing reasons, the Motion of the Union to expedite issuance of the decision of the Board, joined as it is by NLRB, Region 15, should be granted. *See*, *Detroit Newspapers*, 326 NLRB 700, 700 fn. 3 (1998) (in response to motions to expedite the issuance of a decision in a case also involving unlawful unilateral implementations and the unlawful permanent replacement of unfair labor practice strikers, the Board "recognized the need for expeditious processing of the case, consistent with adequate consideration of the issues raised.").

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of October, 2011, Charging Party Unions' Motion to Expedite Issuance of the Decision of the Board was e-mailed to:

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